




IN THE 22ND JUDICIAL CIRCUIT, CITY OF ST LOUIS, MISSOURI

Judge or Division: MICHAEL KELLAN MULLEN	Case Number: 1822-CC11098	RECEIVED SEP 12 2018 COLE COUNTY SHERIFF'S OFFICE
Plaintiff/Petitioner: ELMORE BIBBS	Plaintiff's/Petitioner's Attorney/Address PETER P FIORE JR. 904 SOUTH 4TH STREET SUITE 302 ST LOUIS, MO 63102	
Defendant/Respondent: LIBERTY MUTUAL INSURANCE COMPANY	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	(Date File Stamp)
Nature of Suit: CC Breach of Contract		

Summons in Civil Case

The State of Missouri to: LIBERTY MUTUAL INSURANCE COMPANY		
Alias:		
CSC LAWYERS INC SERVICE CO 221 BOLIVAR JEFFERSON CITY, MO 65101		COLE COUNTY, MO
COURT SEAL OF  CITY OF ST LOUIS	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p>August 29, 2018</p> <p>_____ Date</p> <p><i>Thomas Hoepfinger</i> _____ Clerk</p>	
Further Information:		

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant/respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).

☐ other: _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Document Service

Liberty Mutual Insurance Co C/O Csc Lawyers Inc
Serv Co - Commercial/Business, Document Service
301 W High St, Jefferson City, Mo
St. Louis City Cc 1822-Cc11098 () Civil - Summons
Plaintiff: Elmore Bibbs
Defendant: Liberty Mutual Insurance Co

Date Received
09/12/2018

Return By
09/28/2018

Place of Employment:

Served by _____

Date _____


Time _____



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	<p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p>August 29, 2018</p> <p>_____ Date</p> <p>_____ Clerk</p>
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- ☐ other: _____

Served at _____ (address)
in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

(Seal)

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ _____

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

IN THE CIRCUIT COURT OF ST. LOUIS CITY
STATE OF MISSOURI

ELMORE BIBBS

Plaintiff,

v.

LIBERTY MUTUAL INSURANCE

Defendant.

Serve: Registered Agent
CSC-Layers Incorporating Service Co.
221 Bolivar
Jefferson City MO 65101

Cause No.

PETITION

COUNT I-VEXATIOUS REFUSAL TO PAY

COMES NOW Plaintiff Elmore Bibbs, by and through his attorneys, and for his Count I of his Petition against Defendant, Liberty Mutual Insurance (hereafter "Liberty") alleges and states as follows under Count I of his claim:

1. Plaintiff is a resident of the City of St. Louis, Missouri wherein this cause of action arose.
2. Defendant Liberty Mutual Insurance, now, and was at all times mentioned, a foreign registered insurance company doing business in St. Louis, State of Missouri, by selling and issuing policies of insurance.
3. Plaintiff received a policy (#H35243016917-70), with an effective date of May 29, 2015, from Defendant for insurance coverage on real and personal property located at 2714 Geyer Avenue, St. Louis MO 63104.

EXHIBIT A

4. The total policy coverage for "Dwelling with Expanded Replacement Cost" was \$357,600.00 and "Personal Property with Replacement Cost" coverage was \$268,200.00.
5. On or about July 4, 2015 Plaintiff's property sustained fire damage which resulted in damage to the structure and personal property.
6. Plaintiff paid the required premiums under the policy.
7. The policy of insurance was continuously in full force and effect from the time of its issuance to the date of the loss.
8. For and in consideration of a stipulated premium on the policy of insurance Defendant did agree to provide extensive insurance coverage for Plaintiff.
9. On or about July 8, 2015 Plaintiff made a claim under his policy, being Claim No. 032272912-01.
10. Defendant stated the replacement cost value was \$180,113.70.
11. It is Plaintiff's belief that the replacement content costs are approximately \$268,200.00.
12. On or about January 5, 2016 Defendant issued a check for personal property loss in the amount of \$40,244.23. According to the following recapitulation:

Personal Property Total Loss
\$72,438.68 RCV
\$21,881.02 Less Recoverable Depreciation
\$50,557.66 ACV
\$10,313.43 Less Prior Payments
\$40,244.23 Proposed Supplemental Net ACV Payment to Elmore Bibbs

Personal Property EMS Vendors
\$16,185.36 My Service Co LLC Hard Goods Estimate (paid)
\$3,254.12 My Service Co LLS Debris Removal Estimate (paid)
\$1,645.15 My Service Co Garment/Textile Estimate (paid)
\$21,084.63 Total Paid

Personal Property Claim Overall

\$93,523.31 RCV

\$21,881.02 Less Recoverable Depreciation

\$71,642.29 ACV

\$10,313.43 Less Prior Payments to Elmore Bibbs

\$21,084.63 Less Prior Payments to My Service Co LLC

\$40,244.23 Proposed Supplemental Net ACV Payment Due to Elmore Bibbs

13. Defendant issued checks on the dwelling/structural damage portion of the claim as follows.

- a. September 18, 2015 for \$1,645.15
- b. February 25, 2016 for \$20,369.19
- c. February 11, 2016 for \$58,545.62
- d. September 18, 2015 for \$575.56
- e. July 20, 2015 for \$675.00 to AM Richards Glass Co.

14. On or about August 12, 2015 Defendant informed Plaintiff that a check in the amount of \$69,978.25 was issued, payable to Edwin-Claude Inc, & Bank of America NA & Elmore Bibbs.

15. On October 20, 2015 Defendant informed Plaintiff that the aforesaid check for \$69,978.25 was based on the following recapitulation:

Replacement Cost Value \$190,650.02

Less Depreciation (75,975.21)

Actual Cash Value \$114,674.81

Less Deductible (35,760.00)

Net Claim \$78,914.81

Total Recoverable Depreciation 75,975.21

Net Claim if Depreciation is Recovered \$154,890.02

\$190,650.02 LLA Peterson Supplemental Estimate

\$-75,975.21 Less Recoverable Depreciation when work is done

\$-35,760.00 Less Deductible

\$ 78,914.81 ACV - Actual Cash Value Supplemental Estimate
\$-69,978.25 Less ACV - Actual Cash Value Original Payment

\$ 8,936.56 Supplemental ACV Payment issued
=====

16. Defendant has denied full coverage under the policy.
17. Defendant has failed and refused and still fails and refuses to pay the balance of the claim despite the demand of Plaintiff.
18. Plaintiff, since Defendant became obligated to pay, is entitled to interest on said amount at the legal rate per annum from and after Defendant became obligated to pay on the aforesaid policy.
19. Defendant's refusal to pay the loss sustained by Plaintiff is vexatious and without reasonable cause or excuse and is in violation of the provisions of said policy of insurance; that Plaintiff is entitled to damages in the amount of 20% of the first \$1,500.00 due and owing Plaintiff and 10% of the remaining amount due and owing, plus a reasonable attorney's fee, all pursuant to §375.420 R.S.Mo.
20. Plaintiff is entitled to pre-judgment interest according law for the aforesaid loss.

WHEREFORE, Plaintiff prays for judgment from Defendant on his claim; for interest thereon at the legal rate, from the date Defendant was obligated to pay; for vexatious penalties of 20% of the first \$1,500.00 of the amount due and owing herein and 10% of the remaining amount due and owing; for reasonable attorney's fees incurred and expended; for pre-judgment interest according to law; which totals greater than \$25,000.00 and for such further relief as the court deems just and proper under the premises.

COUNT II - BREACH OF CONTRACT

COMES NOW Plaintiff and for his cause of action against Defendant under Count II of his Petition, states and alleges to the court as follows:

21. Plaintiff incorporates all of the allegations contained in paragraphs 1-20 under Count I of his Petition and incorporates them herein by this reference as if fully set forth under Count II hereof.
22. The policy of insurance was continuously in full force and effect from the time of its issuance until the date of loss.
23. Plaintiff was at all times the named beneficiary under the policy of insurance.
24. The insured complied with all terms and conditions of said policy.
25. Defendant has denied coverage under the policy for the remaining damage and has refused to pay Plaintiff for a total loss under the aforesaid policy.
26. Defendant continues to refuse to pay Plaintiff despite the demand of Plaintiff.
27. As a direct and proximate result of Defendant's breach of the aforesaid contract, Plaintiff has sustained damages in the sum greater than \$25,000.00.
28. Plaintiff is entitled to pre-judgment interest against Defendant for the aforesaid breach of its contract according to law.

WHEREFORE, Plaintiff prays for judgment against Defendant in the sum greater than \$25,000.00 together with interest thereon, under Count II of his Petition that Plaintiff is entitled to prejudgment interest according to law under Count II of his Petition; and for such further relief as the court deems just and proper under Count II.

/s/ Peter P. Fiore, Jr.
PETER P. FIORE, JR., #31650
JEFF WEISMAN, #34075
Attorneys for Plaintiff
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St. Louis, MO 63102
Phone: 314-231-2020 Ext. 103
Fax: 314-231-2016
Email: cohenstonepf@sbcglobal.net
jeff@jweismanlaw.com